



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2005

Mr. James R. Herbrich
Assistant County Attorney
Fayette County Courthouse
151 North Washington
La Grange, Texas 78945

OR2005-03252

Dear Mr. Herbrich:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 222220.

The Fayette County Clerk's Office (the "county clerk") received a request for a bulk extract of certain county criminal index records, specifically including seventeen fields of information. You argue that this information constitutes records of the judiciary, and is therefore not subject to the Act. We have considered your arguments and reviewed the submitted representative sample of information.¹

We note that the Act only applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). We also note that the Act does not apply to records of the judiciary. *See* Gov't Code § 552.003(1)(B). Information that is "collected, assembled or maintained by or for the judiciary" is not subject to the Act. Gov't Code § 552.0035(a); *see also* Tex. Sup. Ct. R. 12. Consequently, records of the judiciary need not

¹ We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

be released under the Act. *See* Attorney General Opinion DM-166 (1992). *But see Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ); Open Records Decision No. 646 (1996) at 4 (“function that a governmental entity performs determines whether the entity falls within the judiciary exception to the . . . Act.”).

You inform this office that the requested data is “stored in a disposition database used to create a monthly report for the Judiciary’s Office of Court Administration[,]” and that the “database keeps records concerning the acts and proceeding [sic] of court and all judgements of the court under the direction of the judge.” You further inform us that the “information is in a secure database not accessible to the general public[,]” and that only “authorized employees with passwords [can] access the database.” However, you note that “[t]he public is allowed to view certain fields on hard copy only.”² Accordingly, we conclude that the requested information is collected, assembled, or maintained by or for the judiciary. Consequently, the public availability of this information is not governed by the Act and is instead governed by “rules adopted by the Supreme Court of Texas or by other applicable law and rules” pertaining to information “collected, assembled, or maintained by or for the judiciary.” *See* Gov’t Code § 552.0035(a), Open Records Open Records Decision No. 671 (1992).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

² Texas courts have long recognized a common law right to copy and inspect certain judicial records. Attorney General Opinion DM-166 at 2-3 (1992) (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision Nos. 618 (1993), 25 (1974).

Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Lauren E. Kleine
Assistant Attorney General
Open Records Division

LEK/jev .

Ref: ID# 222220

Enc. Submitted documents

c: Ms. Christa Trunzo
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(w/o enclosures)